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LABOUR & EMPLOYMENT DEPARTMENT

NOTIFICATION

The 20th February 2009

No. 1719-li/1(B)-23/2001(pt)-L. E.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Award, dated the 22nd December 2008 in Industrial Dispute Case No. 90/2002 of the Presiding Officer, Labour Court, Bhubaneswar to whom the industrial dispute between the management of M/s Subarban Industries Ltd., Bhubaneswar and its workman Shri Budheswar Kandi was referred to for adjudication is hereby published as in the Schedule below :

SCHEDULE

IN THE LABOUR COURT, BHUBANESWAR

INDUSTRIAL DISPUTE CASE No. 90 OF 2002

Dated the 22nd December 2008

Present:

Shri M. R. Tripathy,
Presiding Officer, Labour Court, Bhubaneswar.

Between:

The Management of M/s Subarban Industries Ltd., Bhubaneswar. . . First Party—Management

And
Its workman . . . Second Party—Workman
Shri Budheswar Kandi.

Appearances :

For First Party—Management	..	None
For Second Party— Workman himself	..	Shri B. Kandi

AWARD

The Government of Orissa in exercise of powers conferred by sub-section (5) of Section 12, read with clause (c) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 has referred the dispute between the parties to this Court for adjudication vide Order No. 9259-L.E., dated the 3rd August 2002 of the Labour & Employment Department, Orissa, Bhubaneswar.

2. The Schedule of reference is as follows :

“Whether the action of the management of M/s. Subarban Industries Ltd., Bhubaneswar, in terminating the services of Shri Budheswar Kandi, Electrician with effect from the 27th May 2000 is legal or justified ? If not, what relief Shri Kandi is entitled to ?”

3. The case of the workman may be briefly stated as follows :

He was appointed as an Electrician by the management on the 19th July 1994. He remained on probation for one year and thereafter confirmed in the said post with effect from the 18th October 1995. While he was performing his duty he remained absent for few days due to super cyclone of the year 1999. After reconstruction of his house which was damaged during the super cyclone he went to join in his duty but he was not allowed to join in his post by the management. No notice was issued before refusal of employment and no retrenchment benefit was given to him. He requested the management for his reinstatement but the management did not consider his request. Thereafter he approached the District Labour Officer, Bhubaneswar. A conciliation proceeding started which ended in failure. Hence the reference was made for adjudication.

4. The management was set *ex parte*.

5. The workman examined himself as a witness. In his deposition he has stated that he joined as an Electrician in the management and after completion of probation period of one year his service was confirmed. In the year 1999 during super cyclone his house was completely damaged. He applied leave for reconstruction of his house and his leave was also granted. After reconstruction of his house he returned back to join in his duty but the management refused employment to him. Further according to him before he was terminated from service no enquiry was conducted against him and no notice was served on him. He has proved the xerox copy of letter of appointment marked as Ext. 1, xerox copy of office order regarding confirmation of his service as Electrician marked as Ext. 2, xerox copy of E.P.F. Accounts Slip for the month of December 1994 marked as Ext. 4 and xerox copy of pay slip for the month of February 2000 marked as Ext. 5. The management has not come forwarded to cross-examine him or to challenge the correctness of the facts stated in the documents filed by him. Since the management has been set *ex parte* and the evidence both oral and documentary tendered by the workman have remained uncontroverted, I have no option but to answer in affirmative in favour of the workman.

6. It is stated by the workman that no notice was served on him before he was retrenched. Also notice pay or any compensation was not paid to him before refusal of employment by the management. Thus the management has contravened the provision of Section 25-F of the Industrial Disputes Act, 1947. In the result, therefore, I would say that the workman is entitled to be reinstated in service with back wages.

7. The workman has not performed any work after he was disengaged with effect from the 27th May 2000. Therefore, while directing the management to reinstate workman in service, I would also direct the management to pay back wages at the rate of 40% of his last drawn salary.

8. Accordingly it is ordered :

The workman is entitled to be reinstated in service with back wages at the rate of 40% of his last drawn salary. The management is directed to implement the Award within two months from the date of publication of the Award in the official gazette failing which the management will be liable to pay interest at the rate of 6% per annum on the back wages from the date on which it becomes payable till the date of actual payment.

The reference is thus answered accordingly *ex parte*.

Dictated and corrected by me.

M. R. TRIPATHY

22-12-2008

Presiding Officer

Labour Court, Bhubaneswar.

M. R. TRIPATHY

22-12-2008

Presiding Officer

Labour Court, Bhubaneswar.

By order of the Governor

K. C. BASKE

Under-Secretary to Government